

Ramon Rossi Lopez
rlopez@lopezmchugh.com
(California Bar Number 86361; admitted *pro hac vice*)
Lopez McHugh LLP
100 Bayview Circle, Suite 5600
Newport Beach, California 92660
949-812-5771

Mark S. O'Connor (011029)
moconnor@beusgilbert.com
Beus Gilbert, PLLC
701 N. 44th Street
Phoenix, Arizona 85008
602-429-3019

Co-Lead/Liaison Counsel for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

In Re Bard IVC Filters Products
Liability Litigation

No. MD-15-02641-PHX-DGC

**STIPULATION REGARDING THE
OPINIONS OF DR. MUEHRCKE**

(Assigned to the Honorable David G.
Campbell)

(Tinlin Bellwether Case)

The parties, by and through their counsel undersigned, hereby stipulate as follows:

1. Plaintiffs withdraw the section of Dr. Muehrcke's report titled "Bard Recovery Specific Opinions" with the exception of part of the last paragraph of this section. The portion of that paragraph that remains is as follows:

Bard's sales representative Timothy Fischer testified that, as a sales representative, he was not aware of the internally available statistics at Bard regarding Recovery's failure rates and incidence of migration, fracture, and death and that, if he had been aware, he would have wanted to provide that information to physicians. Deposition of Timothy Fischer, dated Mar. 29, 2017, at 111:15-112:13, 166:4-12, 168:12-169:1, 216:24-218:8, 224:19-225:3, 281:13-282:10. Likewise, implanting physicians would have wanted to know that information in order to make informed decisions as to whether to use the Recovery filter and, if so, for how long

they would have allowed the Recovery filter to remain implanted in their patients. Bard's failure to provide that information to implanting doctors denied them important information in making informed decisions about treatment and obtaining informed consent from patients as to that treatment.

This stipulation does not include the last two paragraphs of the report that are not included in the section titled "Bard Recovery Specific Opinions".

2. Defendants reserve the right to object to any testimony about the remaining portions of the report at trial, and Plaintiffs stipulate that any such objections are preserved and not waived.

3. Defendants withdraw their Motion to Strike Dr. Muehrcke's Untimely Generic Recovery Opinions (Doc. No. 14015) and their Motion and Memorandum in Support of Motion to Exclude Certain Opinions of Dr. Muehrcke (Doc. No. 15080).

RESPECTFULLY SUBMITTED this 1st day of March, 2019.

BEUS GILBERT, PLLC

NELSON MULLINS RILEY &
SCARBOROUGH, LLP

By: /s/ Mark S. O'Connor

By: /s/ Kate Helm (with permission)

Mark S. O'Connor
701 N. 44th Street
Phoenix, Arizona 85008

Richard B. North Jr.
Georgia Bar No. 545599
Matthew B. Lerner
Georgia Bar No. 446986
201 17th Street, NW, Ste. 1700
Atlanta, GA 30363

LOPEZ McHUGH LLP
Ramon Rossi Lopez (CA Bar No.
86361)
(admitted *pro hac vice*)
100 Bayview Circle, Suite 5600
Newport Beach, California 92660

James R. Condo (005867)
Amanda Sheridan (027360)
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2204

Co-Lead/Liaison Counsel for Plaintiffs

*Attorneys for Defendants C.R. Bard, Inc.
and Bard Peripheral Vascular, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of March 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/Jessica Gallentine